

AMENDED IN SENATE MAY 31, 2011
AMENDED IN SENATE APRIL 6, 2011
AMENDED IN SENATE MARCH 22, 2011
AMENDED IN SENATE MARCH 10, 2011

SENATE BILL

No. 186

Introduced by Senators Kehoe and DeSaulnier
(Principal coauthor: Assembly Member Alejo)
(Coauthor: Assembly Member Lara)

February 7, 2011

An act to amend, *repeal, and add* Section 12464 of the Government Code, relating to the Controller.

LEGISLATIVE COUNSEL'S DIGEST

SB 186, as amended, Kehoe. The Controller.

Existing law ~~authorizes the Controller~~ *provides that if the county, city, or district reports are not made in a specified manner, or there is reason to believe that the report is false, the Controller is required to* appoint a qualified accountant to make an investigation and to obtain the information required for the annual report of financial transactions. *Existing law provides that if a similar investigation is made of any county, city, or district for 2 successive years, then a copy of the results of those investigations shall be transmitted to the grand jury of the county investigated or in which the local agency investigated is situated.*

This bill would *expand the above provisions to also include a special district, joint powers authority, or redevelopment agency. This bill would also, until January 1, 2017, authorize the Controller to exercise* discretionary authority to perform an audit or investigation of any county, city, special district, joint powers authority, or redevelopment

agency, if the Controller has reason to believe, supported by documentation, that the local agency is not complying with the financial requirements in state law, grant agreements, local charters, or local ordinances. This bill would require, *until January 1, 2017*, the Controller to prepare a report of the results of the audit or investigation and to file a copy with the local legislative body.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12464 of the Government Code is
2 amended to read:
3 12464. (a) If the county, city, special district, joint powers
4 authority, or redevelopment agency reports are not made in the
5 time, form, and manner required or there is reason to believe that
6 a report is false, incomplete, or incorrect, the Controller shall
7 appoint a qualified accountant to make an investigation and to
8 obtain the information required. The accountant appointed shall
9 report to the Controller the results of the investigation, and a copy
10 shall be filed with the legislative body of the county, city, special
11 district, joint powers authority, or redevelopment agency, the
12 accounts of which were investigated. If a similar investigation has
13 to be made of the accounts of any county, city, special district,
14 joint powers authority, or redevelopment agency, for two
15 successive years, a certified copy of the results of the investigation
16 last made shall be transmitted to the grand jury of the county that
17 was investigated or in which the local agency investigated is
18 situated, or, if the agency is situated in more than one county, in
19 the county in which any portion of the agency is situated.
20 (b) (1) If the Controller has reason to believe that any county,
21 city, special district, joint powers authority, or redevelopment
22 agency is not complying with the financial requirements in state
23 law, local charters, or local ordinances, he or she may perform an
24 audit or investigation of the issue. The basis for the decision to
25 conduct an audit or investigation shall be supported by credible
26 documentation, including input from the local agency, *as well as*
27 *a determination by the Controller that sufficient funds are made*
28 *available to conduct the audit or investigation.* The Controller
29 shall prepare a report of the results of the audit or investigation

that shall include documentation used as the basis for the decision to perform the audit or investigation. A copy of the report shall be filed with the legislative body of the county, city, special district, joint powers authority, or redevelopment agency, subject to the audit or investigation. Any finding of illegal acts or fraud shall be communicated to the appropriate authorities, including the county grand jury.

(2) For purposes of this subdivision, documentation means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

(c) Any costs incurred by the Controller pursuant to ~~subdivision (a)~~ subdivisions (a) and (b), including contracts with, or employment of, certified public accountants or public accountants, in compiling a financial report pursuant to Section 12463 or 12463.3 of this code, or as required by Section 33684 of the Health and Safety Code, shall be borne by the county, city, special district, joint powers authority, or redevelopment agency, and shall be a charge against any unencumbered funds of the county, city, special district, joint powers authority, or redevelopment agency. Any forfeiture imposed by Section 53895 or 53895.5 may be offset up to the total costs incurred by the Controller. Any remaining balance shall be forfeited in accordance with Sections 53895 and 53895.5. Any costs incurred by the Controller in excess of the forfeiture imposed shall be a charge against any unencumbered funds of the county, city, special district, joint powers authority, or redevelopment agency.

(d) *This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.*

SEC. 2. Section 12464 is added to the Government Code, to read:

12464. (a) *If the county, city, special district, joint powers authority, or redevelopment agency reports are not made in the time, form, and manner required or there is reason to believe that a report is false, incomplete, or incorrect, the Controller shall*

1 *appoint a qualified accountant to make an investigation and to*
2 *obtain the information required. The accountant appointed shall*
3 *report to the Controller the results of the investigation, and a copy*
4 *shall be filed with the legislative body of the county, city, special*
5 *district, joint powers authority, or redevelopment agency, the*
6 *accounts of which were investigated. If a similar investigation has*
7 *to be made of the accounts of any county, city, special district,*
8 *joint powers authority, or redevelopment agency, for two successive*
9 *years, a certified copy of the results of the investigation last made*
10 *shall be transmitted to the grand jury of the county that was*
11 *investigated or in which the local agency investigated is situated,*
12 *or, if the agency is situated in more than one county, in the county*
13 *in which any portion of the agency is situated.*

14 *(b) Any costs incurred by the Controller pursuant to subdivision*
15 *(a), including contracts with, or employment of, certified public*
16 *accountants or public accountants, in compiling a financial report*
17 *pursuant to Section 12463 or 12463.3 of this code, or as required*
18 *by Section 33684 of the Health and Safety Code, shall be borne*
19 *by the county, city, special district, joint powers authority, or*
20 *redevelopment agency, and shall be a charge against any*
21 *unencumbered funds of the county, city, special district, joint*
22 *powers authority, or redevelopment agency. Any forfeiture imposed*
23 *by Section 53895 or 53895.5 may be offset up to the total costs*
24 *incurred by the Controller. Any remaining balance shall be*
25 *forfeited in accordance with Sections 53895 and 53895.5. Any*
26 *costs incurred by the Controller in excess of the forfeiture imposed*
27 *shall be a charge against any unencumbered funds of the county,*
28 *city, special district, joint powers authority, or redevelopment*
29 *agency.*

30 *(c) This section shall become operative on January 1, 2017.*